Attorney's Docket No.: 11283-019US1 / PH-935PCT-Applicant: Ken-ichi Nakayama et al.

Serial No.: 10/089,014 Filed : March 25, 2002

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## **REMARKS**

## Claim Rejections – 35 USC §101

Claims 1 to 3 have been rejected as being directed to non-statutory subject matter.

Claims 1 to 3 have been amended to include the appropriate language to obviate this rejection. Withdrawal of this rejection is respectfully requested.

### Claim Rejections – 35 USC §112

Claims 1 to 9 have been rejected as not being non-enabled by the specification.

Independent claims 1 and 2 have been amended to claim SEQ ID NO. 1 and the DNA of SEQ ID NO. 1 as follows:

- 1. (Currently Amended) An isolated protein comprising: an amino acid sequence represented by SEQ ID NO: 1.
- 2. (Currently Amended) An isolated DNA encoding a protein comprising: an amino acid sequence represented by SEQ ID NO: 1.

Thus, claims 1 and 2 as amended and their dependent claims (claims 3 to 9) are supported and fully enabled by the specification. Withdrawal of this rejection is respectfully requested.

#### Claim Rejections – 35 USC §102

Claims 1 to 3 have been rejected as being anticipated by Bonin et al. (Plant Physiol., Vol. 114(3), Sup. page 22, Abstract 20). Claims 1 to 2 and 4 to 8 have been rejected as being anticipated by Andrianopoulos et al. (J. Bacteriol., Vol. 180(4): 998-1001).

With respect to Bonin et al., the Examiner takes the position that the enzyme identified in Bonin et al. is the same as SEQ ID NO. 1 of the present application even though, Bonin et al. does not disclose the actual amino acid sequence or the polynucleotide sequence. Applicants disagree with this assumption for the following reasons.

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The amino acid sequence of GER1 was registered with GenBank by Bonin et al. under

the accession number AAC02703 on February 12, 1998. Enclosed is a copy of GenBank

registered information (Exhibit 1). Therefore, it is validly assumed that the protein having the

amino acid sequence registered with GenBank corresponds to the GER1 protein of Bonin et al.

A comparison was made between the amino acid sequence of the AtFX1 protein (SEQ ID

NO: 1) and the registered amino acids sequence of GER1 protein of Bonin et al. As a result, it is

revealed that they have 93.7% homology in amino acids. Bonin's et al.'s GER1 protein is shown

to have eighteen differences in amino acids (including a contiguous difference of sixteen amino

acids), one deletion of an amino acid, and three insertions of amino acids when compared to the

AtFX1 protein. A copy of the result of the comparison is enclosed as Exhibit 2.

Therefore, it is submitted that the protein of claim 1 as amended is different from the

GER1 protein of Bonin et al.

When comparing the amino acid sequence and nucleotide sequence of the claimed

protein (AtFX1) with the protein disclosed in Andrianopoulos et al. (WcaG), it can be noted that

they have only 56.3% homology in amino acids and 58.2% homology in nucleotides. Copies of

the comparison results are enclosed as Exhibits 3 and 4. Also, the WeaG protein was isolated

from E. coli., whereas the AtFX1 protein was isolated from Arabidopsis.

Therefore, the protein of claim 1 is different from the WcaG protein of Andrianopoulos et

al.

Thus, both Bonin et al. and Andrianopoulos et al. do not anticipate the presently claimed

invention as set forth in claims 1 to 8 at least for the above reasons.

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It is noted that claim 9 has not been rejected on the basis of anticipation. Thus, it is

assumed that by overcoming the 112 rejections of the basis claims, claim 9 would be allowable.

In summary, at least for the foregoing reasons, Applicants submit that all of the claims

have overcome the rejections set forth. It is respectfully requested that all pending claims be

allowed.

Enclosed is a check for the Petition for Extension of Time fee (one-month). Please apply

any other charges or credits to deposit account 06-1050.

Respectfully submitted,

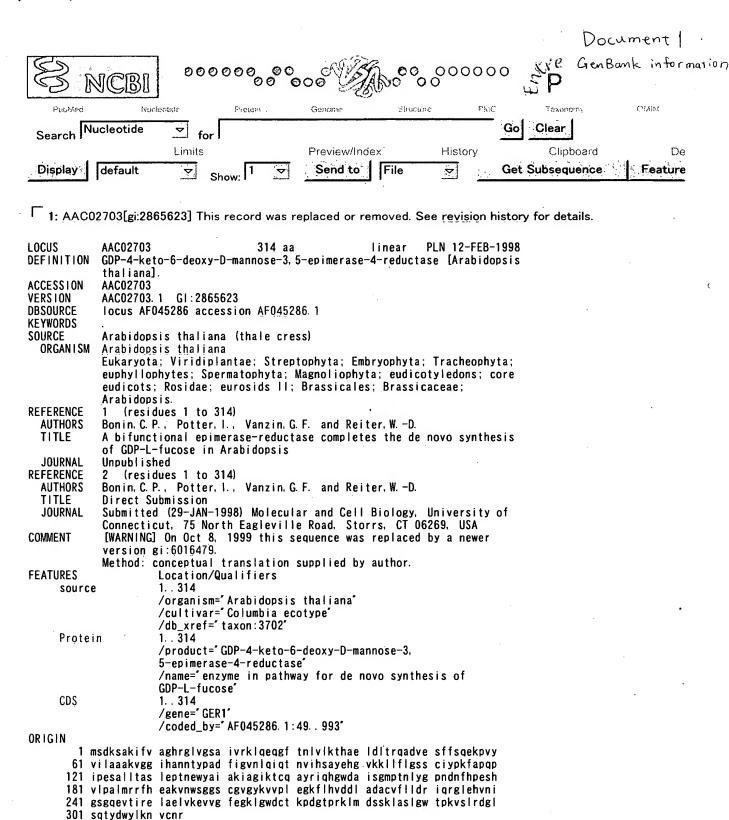
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Document 2 Comparison result (GERI/AtFXI)

[ GENETYX-MAC : Amino Acid Sequence Homology Data ]

Date: 2003.08.18

1st Amino Acid Sequence

File Name : Gerlp. ptn

Sequence Size : 314

2nd Amino Acid Sequence

File Name : AtFX1.ptn

Sequence Size : 312

Unit Size to compare = 2 Pick up Location = 2

[93.7% / 315 aa]

INT/OPT. Score : < 869/ 1415 >

- 1' MSDKSAKIFVAGHRGLVGSAIVRKLQEQGFTNLVLKTHAELDLTRQADVESFFSQEKPVY
- 1" MSDKSAKIFVAGHRGLVGSAIVRKLQEQGFTNLVLKTHAELDLTRQADVESFFSQEKPVY
- 61' VILAAAKVGGIHANNTYPADFIGVNLQIQTNVIHSAYEHGVKKLLFLGSSCIYPKFAPQP
- 61" VILAAAKVGGIHANNTYPADFIGVNLQIQTNVIHSAYEHGVKKLLFLGSSCIYPKFAPQP
- 121' IPESALLTASLEPTNEWYAIAKIAGIKTCQAYRIQHGWDAISGMPTNLYGPNDNFHPE-S
- 121" IPESALLTASLEPTNEWYAIAKIAGIKTCQAYRIQHGWDAISGMPTNLYGPNDNFHPENS
- 181" HVLPALMRRFHEAKVN--GAEEVVVWGTGSPLREFLHVDDLADACVFLLDRY-SGLEHVN
- 238" IGSGQEVTIRELAELVKEVVGFEGKLGWDCTKPDGTPRKLMDSSKLASLGWTPKVSLRDG
- 300' LSQTYDWYLKNVCNR

\*\*\*\*\*\*\*\*\*

298" LSQTYDWYLKNVCNR

[93.7% / 315 aa]

INT/OPT. Score : < 425/ 1415 >

- 1" MSDKSAK1FVAGHRGLVGSA1VRKLQEQGFTNLVLKTHAELDLTRQADVESFFSQEKPVY
- 61" VILAAAKVGGIHANNTYPADFIGVNLQIQTNVIHSAYEHGVKKLLFLGSSCIYPKFAPQP
- 121" IPESALLTASLEPTNEWYAIAKIAGIKTCQAYRIQHGWDAISGMPTNLYGPNDNFHPENS

# GerlpAtFX. txt

	HVLPALMRRFHEAKVNWSGGSCGVGYKVVPLEGKFLHVDDLADACVFLLDRIQRGLEHVN ************************************
240'	IGSGQEVT1RELAELVKEVVGFEGKLGWDCTKPDGTPRKLMDSSKLASLGWTPKVSLRDG
238″	IGSGQEVTIRE LAELVKEVVGFEGKLGWDCTKPDGTPRKLMDSSKLASLGWTPKVSLRDG
300'	LSQTYDWYLKNVCNR
	*******
298"	LSQTYDWYLKNVCNR

Document 3 Comparison result (AtFXI/WcaG) a.a.

[ GENETYX-MAC : Amino Acid Sequence Homology Data ]

Date: 2003.08.18

1st Amino Acid Sequence

File Name : AtFX1.ptn

Sequence Size : 312

2nd Amino Acid Sequence

File Name : wcaG.ptn

Sequence Size : 321

Unit Size to compare = 2 Pick up Location = 2

[56.3% / 311 aa]

INT/OPT. Score : < 565/ 918 >

- 1' MSDKSAKIFVAGHRGLVGSAIVRKLQEQGFTNLVLKTHAELDLTRQADVESFFSQEKPVY ..\*.\*\*\*\*\* \*.\*..\* ..\*\*\*.\* ..\*..\* ..\*..\*
- 1" MSKQRVFIAGHRGMVGSAIRRQLEQRGDVELVLRTRDELNLLDSRAVHDFFASERIDQ
- 59" VYLAAAKVGGIVANNTYPADFIYQNMMIESNIIHAAHQNDVNKLLFLGSSCIYPKLAKQP
- $119 \verb|" MAESELLQGTLEPTNEPYAIAKIAGIKLCESYNRQYGRDYRSVMPTNLYGPHDNFHPSNS| \\$
- 179" HVIPALLRRFHEATAQNAPDVVVWGSGTPMREFLHVDDMAAASIHVMELAHEVWLENTQP
- 239" MLSHINVGTGVDCTIRDVAQTIAKVVGYKGRVVFDASKPDGTPRKLLDVTRLHQLGWYHE
- 292' VSLRDGLSQTYDWYLKNVCNR

.\*\* .\*\*. \*\*.\*.\*

299" ISLEAGLASTYQWFLENQDRFRG

[56.3% / 311 aa]

INT/OPT. Score : < 121/ 918 >

- 1" MSKQRVFIAGHRGMVGSAIRRQLEQRGDVELVLRTRDELNLLDSRAVHDFFASERIDQ
- 59" VYLAAAKVGGIVANNTYPADFIYQNMMIESNIIHAAHQNDVNKLLFLGSSCIYPKLAKQP
- 119" MAESELLQGTLEPTNEPYAIAKIAGIKLCESYNRQYGRDYRSVMPTNLYGPHDNFHPSNS

181'	HVLPALMRRFHEAKVNGAEEVVVWGTGSPLREFLHVDDLADACVFLLDRYS **. ***. ****** * . *****. *. *. *. *
179″	${\tt HVIPALLRRFHEATAQNAPDVVVWGSGTPMREFLHVDDMAAASIHVMELAHEVWLENTQP}$
232'	GLEHVNIGSGQEVTIRELAELVKEVVGFEGKLGWDCTKPDGTPRKLMDSSKLASLGWTPK *.*.*.***.***********************
239″	MLSHINVGTGVDCT1RDVAQT1AKVVGYKGRVVFDASKPDGTPRKLLDVTRLHQLGWYHE
292'	VSLRDGLSQTYDWYLKNVCNR .**.**.*.*
299″	ISLEAGLASTYQWFLENQDRFRG

Document 4 Comparison result (Atfx1/W(aG) n.t.

[ GENETYX-MAC : Nucleotide Sequence Homology Data ]

Date: 2003.08.18

1st Nucleotide Sequence

File Name : AtFXorf.nuc

Sequence Size : 939

2nd Nucleotide Sequence

File Name : wcaG. nuc

Sequence Size : 960

Unit Size to Compare = 4 Pick up Location = 2

[58.2% / 933 bp] INT/OPT. Score : < 1084/ 1266 >

- 1" ATGAGTAAACAACGAGTTTTTATTGCTGGTCATCGCGGGATGGTCGGTTCCGCC
- 55" ATCAGGCGGCAGCTCGAACAGCGCGGTGATGTGGAACTGGTATTACGCACCCGCGACGAG
- 115" C-TGAACCTGCTGGACAGCCGCGCGCGTGCATGATTTCTTTGCCAGCGAACGTATTGACCA
- 174" GGTCTATCTGGCGGCGCGAAAGTGGGCGGCATTGTTGCCAACAACACCTATCCGGCGGA
- 240' TTTCATTGGTGTCAATCTCCAGATTCAGACCAATGTGATCCACTCTGCATATGAGCACGG
  \*\*\*\*\*\* \*\* \*\* \*\*\* \*\*\* \*\* \*\* \*\* \*\* \*\* \*\*\*
- 234" TTTCATCTACCAGAACATGATGATGAGAGCAACATCATTCACGCCGCGCATCAGAACGA
- 294" CGTGAACAACTGCTGTTTCTCGGATCGTCCTGCATCTACCCGAAACTGGCAAAACAGCC

- 354" GATGGCAGAAAGCGAGTTGTTGCAGGGCACGCTGGAGCCGACTAACGAGCCTTATGCTAT
- 414" TGCCAAAATCGCCGGGATCAAACTGTGCGAATCATACAACCGCCAGTACGGACGCGATTA
- 474" CCGCTCAGTCATGCCGACCAACCTGTACGGGCCACACGACAACTTCCACCCGAGTAATTC
- 534" GCATGTGATCCCAGCATTGCTGCGTCGCTTCCACGAGGCGACGGCACAGAATGCGCCGGA

000	** **** **** * **** * *** ** ** ** ** *
594 <b>"</b>	${\tt CGTGGTGGTATGGGGCAGCGGTACACCGATGCGCGAATTTCTGCACGTCGATGATATGGC}$
659'	CTGATGCTTGTGTTTTCTTGCTGGA-TCGATACAGCG
654"	GGCGGCGAGCATTCATGTCATGGAGCTGGCGCATGAAGTCTGGCTGG
695'	GGTTGGAGCATGTTAACATTGGAAGTGGTCAAGAAGTGACTATTAGAGAGTTGGCTGA * * ** *** *** * * * * * * * * * * * *
714"	GATGTTGTCGCACATTAACGTCGGCACGGGCGTTGACTGCACTATCCGCGACGTGGCGCA
753'	GTTGGTGAAAGAGGTTGTTGGTTTTGAAGGGAAGCTTGGATGGGATTGCACTAAGCCAGA  * *** *** *** *** * * * * * * * * * *
774"	AACCATCGCCAAAGTGGTGGGTTACAAAGGCCGGGTGGTTTTTGATGCCAGCAAACCGGA
813'	TGGCACACCGAGGAAACTTATGGACAGCTCAAAGCTCGCGTC-TTTGGGTTGGACACCTA ***** ** * **** * *** * * ** * * * * *
834"	TGGCACGCCGCAAACTGCTGGA-TGTGACGCGCCTGCATCAGCTTGGCTGGTATCACG
872'	AGGTTTCTCTTAGAGATGGTCTGAGCCAAACTTATGATTGGTATTTGAAGAATGTTTGCA * * ** ** ** ** ** ** ** ** ***** * ****
893″	${\tt AAATCTCACTGGAAGCGGGGCTTGCCAGCACTTACCAGTGGTTCCTTGAGAATCAAGACC}$
932'	ACCGATAA
953″	GCTTTCGGGGGTAA
_	
[58. 2%]	/ 933 bp] INT/OPT.Score : < 262/ 1266 >
1'	ATGTCTGACAAATCTGCCAAAATCTTCGTCGCGGGTCATCGTGGTTTGGTTGG
1"	ATGAGTAAACAACGAGTTTTTATTGCTGGTCATCGCGGGATGGTCGGTTCCGCC
61'	ATTGTCCGCAAGCTTCAGGAACAAGGTTTCACCAATCTCGTTCTTAAAACACACGCCGAG ** ** *** * * * * * * * * * * * * * *
55″	ATCAGGCGGCAGCTCGAACAGCGCGGTGATGTGGAACTGGTATTACGCACCCGCGACGAG
121'	CTTGATCTCACTCGTCAAGC-CGATGTTGAATCCTTCTTTTCTCAAGAGAAGCCAGTTTA * *** * * * * * * * * * * * * * * * *
115"	$\hbox{C-TGAACCTGCTGGACAGCCGCGCGCGTGCATGATTTCTTTGCCAGCGAACGTATTGACCA}$
180'	TGTAATCCTAGCAGCAGCTAAAGTTGGTGGTATTCACGCTAACAACACCTATCCTGCTGA
174"	${\tt GGTCTATCTGGCGGCGGCAAAGTGGGCGGCATTGTTGCCAACAACACCTATCCGGCGGA}$
240'	TTTCATTGGTGTCAATCTCCAGATTCAGACCAATGTGATCCACTCTGCATATGAGCACGG ****** * * *** *** * * * * * * * * *
234"	${\tt TTTCATCTACCAGAACATGATGATGAGAGCAACATCATTCACGCCGCGCATCAGAACGA}$
300'	TGTGAAGAAGCTTCTCTTCGTTGGATCATCCTGCATTTACCCTAAATTTGCTCCTCAGCC
294″	CGTGAACAAACTGCTGTTTCTCGGATCGTCCTGCATCTACCCGAAACTGGCAAAACAGCC
360'	AATTCCTGAGTCTGCTTTGTTAACAGCATCGCTTGAACCAACTAATGAGTGGTATGCTAT ** * ** * * ***** * ****** * *********
054"	** * ** * ****** * ****** * ****** * *****

420'	TGCTAAGATCGCTGGGATTAAGACTTGTCAGGCTTATAGGATTCAGCACGGATGGGATGC
	*** ** **** *** ** ** * * * * * * * * *
414"	TGCCAAAATCGCCGGGATCAAACTGTGCGAATCATACAACCGCCAGTACGGACGCGATTA
480'	AATCTCTGGCATGCCTACTAATCTCTATGGTCCTAATGACAATTTCCACCCGGAGAATTC *** * ***** ** ** ** ** ** ** ****** ****
474"	CCGCTCAGTCATGCCGACCAACCTGTACGGGCCACACGACAACTTCCACCCGAGTAATTC
540'	TCATGTGCTTCCTGCTCTTATGAGGAGGTTCCACGAGGCGAAAGTGAATGGAGCGGAGGA ***** * * * * * * * * * * * * * * * *
534"	GCATGTGATCCCAGCATTGCTGCGTCGCTTCCACGAGGCGACGGCACAGAATGCGCCGGA
600'	AGTTGTGGTGTGGGGTACAGGTAGTCCGTTGAGGGAGTTCTTGCATGTTGATGATTTGG- ** **** **** * *** ** ** ** ** *** ***
594"	${\tt CGTGGTGGTATGGGGCAGCGGTACACCGATGCGCGAATTTCTGCACGTCGATGATATGGC}$
659'	CTGATGCTTGTGTTTTCTTGCTGGA-TCGATACAGCG
654"	GGCGGCGAGCATTCATGTCATGGAGCTGGCGCATGAAGTCTGGCTGG
695'	GGTTGGAGCATGTTAACATTGGAAGTGGTCAAGAAGTGACTATTAGAGAGTTGGCTGA * * ** ** *** *** * * * * * * * * * *
714"	GATGTTGTCGCACATTAACGTCGGCACGGGCGTTGACTGCACTATCCGCGACGTGGCGCA
753'	GTTGGTGAAAGAGGTTGTTGGTTTTGAAGGGAAGCTTGGATGGGATTGCACTAAGCCAGA  * ** ** *** *** ** * * * * * * * * *
774"	${\tt AACCATCGCCAAAGTGGTGGGTTACAAAGGCCGGGTGGTTTTTGATGCCAGCAAACCGGA}.\\$
813'	TGGCACACCGAGGAAACTTATGGACAGCTCAAAGCTCGCGTC-TTTGGGTTGGACACCTA ***** *** * *** * * ** * * * * * * * *
834"	TGGCACGCCGCAAACTGCTGGA-TGTGACGCGCCTGCATCAGCTTGGCTGGTATCACG
872'	AGGTTTCTCTTAGAGATGGTCTGAGCCAAACTTATGATTGGTATTTGAAGAATGTTTGCA * * ** ** ** ** ** ** ** ** *****
893″	AAATCTCACTGGAAGCGGGGCTTGCCAGCACTTACCAGTGGTTCCTTGAGAATCAAGACC
932'	ACCGATAA
953″	GCTTTCGGGGGTAA

1st Nucleotide Sequence

File Name : AtFXorf.nuc (Complementary)

Sequence Size : 939

2nd Nucleotide Sequence

1'

File Name : wcaG.nuc

Sequence Size : 966

Unit Size to Compare = 4 Pick up Location = 2

[44.7% / 770 bp] INT/OPT. Score : < +58/ 198 >

TTATCGGTTGCAAAC-ATTCTTCAAATACCAATCATAAG

	**** * * * * * * * * * * * * * * * * * *
181"	${\tt CTGGCGGCGAAAGTGGGCGGCATTGTTGCCAACAACACCTATCCGGCGGAT-TTCAT}$
39'	TTTGGCTCAGACCATCTCTAAGAGAAACCTTAGGTGTCCAACCCAAAGACGCGAGCTTTG  * * * * * * * * * * * * * * * * * * *
240″	CTACCAGAACATGATGATTGAGAGCAACATCATTCACGCCGCGCATCAGAACGACG
99'	AGCTGTCCATAAGTTTCCTCGGTGTGCCATCTGGCTTAGTGCAATCCCATCCAAGCTTCC  * * * ***** * *** * * * * * * * * *
296″	TGAACAAACTGCTGTTTCTCGGATCGTCCTGCATCTACCCGAAACTGGCAAAACAGCC
159'	CTTCAAAACCAACAACCTCTTTCA-CCAACTCAGCCAACTCTCTAATAGTCACTTCTTGA * * * * * * * * * * * * * * * * * * *
354″	GATGGCAGAAAGCGAGTTGTTGCAGGGCACGCTG-GAGCCGACTAA-CGAGCCTT-ATG-
218'	CCACTTCCAATGTTAACATGCTCCAACCCGCTGTATCGATCCAGCAAGAAAACACAAG * * * *** * * * * * * * * * * * * * *
410″	
276'	CAT-CAGCCAAATCATCAACATGCAAGAACTCCCTCAACGGACTACCTGTACCCCA * * ** * *** * ** * * * * * * * * * *
470″	ATTACCGCTCAGTCATGCCGACCAACCTGTACGGGC-CACACGACAACTTCCACCCGAGT
331'	CACCACAACTTCCTCCGCTCCATTCACTTTCGCCTCGTGGAACCTCCTCATAA-GAG * * * * * * * * * * * * * * * * * * *
529″	AATTCGCATGTGATCCCAGCATTGCTGCGTCGCTTCCACGAGGCGACGGCACAGAATGCG
387'	CAGGAAGCACATGAGAATTCTCCG-GGTGGAAATTGTCATTAGGACCATAGAGATTA * *** * * * * * * * * * * * * * * * *
589″	
443'	GTAGGCATGCCAGAGATTGCATCCCATCCGTGCTGAATCCTATAAGCCTGACAAGTCTTA *** *** *** *** * *** * *** * * *** * *** *
648″	TATGGCGGCGGCGAGCATTCATGTCAT-GGAGCTGGCGCAT-GAAGTCTGGCTGGAGAAC
503'	ATCCCAGCGATCTT—AGCA—ATAGCATACCACTCATTAGTTGGTTCAAGCGATGCTGTT  * ** *** ** ** * * * * * * * * * * *
706″	
560'	AACAAAGCAGACTCAGGAATTGGCTGAGGAGCAAATTTAGGGTAAATGCAGGATGATC
765″	CGTGGCGCAAACCATCGCCAAAGTGGTGGGTTACAAAGGCCGGGTGGTTTTTGATGCCAG
618'	CAAGGAAGAGAAGCTTCTTCACACCGTGCT-CATATGCAGAGTGGATCACATTGGTCT *** ** ** ** *** *** *** **** ****
825″	CAAACCGGATGGCACGCCGCGCAAACTGCTGGATGTGACGCGCCTGCATCAGCTTGGCTG
675'	GAATCTGGAGAT-TGACACCAATGAAATCAGCAGGATAGGTGTTGTTAGCGTGAAT  * *** ** ** ** ** ** ** ** ** ********
885″	GTATCACGAAATCTCACTGGAAGCGGGGCTTGCCAGCACTTACCAGTGGTT-CCTTGAGA
730'	ACCACCAACTTTAGCTGCTGCTAGGATTACATAAACTGGCTTCTCTTGAGAAAAGAAGGA
944″	* ** * * * * * ATCAAGACCGCTTTCGGGGGTAA

[46.6% / 163 bp] INT/OPT. Score : < 44/ 64 >

721' AGCGTGAATACCACCAACTTTAGCTGCTGCTAGGATTACATAAACTGGCTTCTCTTGAGA

1" ATGAGT

- 67" CTCGAACAGCGCGGTGATGTGGAACTG-GTATTACGCAC--CCGC-GA-CGAGCTGAACC
- 122" TGCTGGA-CAGCCGCGCCGTGCATGATTTCTTTGCCAGCGAACGTATTGACCAGGTCTAT